



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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EPA NO. U69803
FILE NO. B1-6

SDMS Document ID



2162885

May 28, 2004

Ref: 8ENF-L

SENT VIA REGULAR MAIL

Mr. Glenn Rogers, Chairman
Shivwits Band of Paiute Indian Tribe
P.O. Box 448
Santa Clara, UT 84765

Re: Request for Concurrence/Comment on
Hecla Mining Company Apex Site Pond 2
Closure Work Plan

Dear Chairman Rogers:

I am writing to inform the Shivwits Band of Paiute Indian Tribe ("Band") of the Environmental Protection Agency's ("EPA") proposed settlement agreement with Hecla Mining Company ("Hecla") pertaining to the Apex Site Pond 2 ("Pond 2") in St. George, Utah, under section 7003 of the Resource, Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6973. The purpose of this letter also is to request the Band's comments on the related closure work plan for Pond 2 ("closure work plan") proposed by Hecla. In order for Hecla to commence timely pond cleanup and closure, and to fully resolve EPA's administrative action with Hecla, EPA requests the Band's concurrence and/or comments on the closure work plan by June 11, 2004.

As noticed in correspondence to you dated January 16, 2002, no evidence of seepage migration was detected as a result of the October 2001 Apex Site Pond 2 investigation and soils sampling and analysis. Based on this information and Hecla's compliance with EPA's previously-issued Order Requiring Monitoring, Testing, Analysis and Reporting pursuant to section 3013 of RCRA, 42 U.S.C. § 6934, EPA and Hecla have been negotiating the terms of a Consent Order under section 7003 of RCRA, 42 U.S.C. § 6973, to ensure full compliance with RCRA Subtitle C requirements at Pond 2. Specifically, Hecla is agreeing to perform specific activities pursuant to the Consent Order determined necessary to protect human health or the environment.

Simultaneous with finalizing the Consent Order, EPA plans to approve the closure work plan for Pond 2 prepared by Hecla. The final draft of this document was provided by Hecla for review to the Band, the Paiute Indian Tribe and the Bureau of Indian Affairs, on April 2, 2004.



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For your convenience, an additional copy of the closure work plan is enclosed herein. The final draft of the closure work plan incorporates the Band's comments and concerns pertaining to an earlier draft document discussed during a site inspection involving EPA, the Band, the Paiute Tribe and Hecla representatives on September 24, 2003. The final closure work plan also includes an extended monitoring period and additional requirements to section 4.2.6 of the closure work plan proposed by EPA. EPA is satisfied that the Consent Order and closure work plan will adequately mitigate the possibility of future leachate contamination and address unforeseen problems related to performance of the closure work plan.

Please submit the Band's comments, concerns or concurrence in reference to the closure work plan to Eric Johnson at the address provided above (mail code 8ENF-RC). Alternatively, please do not hesitate to have your staff contact Mr. Johnson at (303) 312-6357. EPA will infer the Band's concurrence on the closure work plan absent a response by June 11, 2004. Copies of both the final Consent Order and closure work plan will be provided to the Band upon filing the documents with the EPA Regional Hearing Clerk.

Sincerely,

Michael T. Bisner
for

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

enc: draft Pond 2 Closure Work Plan

cc: Tara Marlowe, Paiute Tribe Environmental Director
Tod Smith, Whiteing & Smith
John Krause, BIA
John R. Jacus, Davis, Graham & Stubbs
Chris Gypton, Hecla Mining Company

bcc: Eric Johnson, 8ENF-RC
Amy Swanson, 8ENF-L
Donna Jackson, 8P, TAP

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JUN 1 - 2004

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Justice